

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 3743-01
BILL NO.: HB 1560
SUBJECT: Motor Vehicles; Open Container Law
TYPE: Original
DATE: March 6, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	(Unknown, less than \$100,000)	(Unknown, less than \$100,000)	(Unknown, less than \$100,000)
Total Estimated Net Effect on <u>All</u> State Funds	(Unknown, less than \$100,000)	(Unknown, less than \$100,000)	(Unknown, less than \$100,000)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue (DOR)**, **Missouri State Highway Patrol (MHP)**, **State Public Defender (SPD)** and the **Office of Prosecution Services (OPS)** assume this proposal would not fiscally impact their agency.

Officials of the **Missouri Department of Transportation (MoDOT)** stated that this proposal complies with federal requirements, and therefore assumes no fiscal impact on MoDOT.

Under the Transportation Equity Act for the 21st Century Restoration Act, a new program was established that requires states to enact Open Container laws. Any state which does not have an Open Container law by October 1, 2000, would have one and one-half percent of their federal surface transportation funds transferred from their highway construction program to their highway safety program. This amount would increase to three percent if there is no compliance with the TEA-21 mandates by October 1, 2002. For FY's 2001 and 2002, this amounts to a loss of approximately \$6.2 million in federal highway funds. For FY 2003 and beyond, this transfer would amount to \$12.4 million.

Officials of the **Department of Corrections (DOC)** assume the penalty provision portions of the proposal would have a fiscal impact on DOC relating to probation, parole and/or incarceration.

New commitments which could result from the creation of the offense(s) outlined in this proposal could not be accurately determined. In addition, changes in penalty provisions for current crimes could result in additional costs due to new commitments and/or longer sentences. The utilization of these laws for both new offenses and enhanced penalties for current offenses depend upon actions of prosecutors and the courts.

If additional persons were sentenced to the custody of the DOC due to the provisions of this proposal, the DOC would incur a corresponding increase in operational costs either through incarceration (average of \$35.61 per inmate, per day) or through supervision provided by the Board of Probation and Parole (average of \$2.47 per offender, per day).

Since this proposal deals with violations concerning open containers of alcohol in a motor vehicle only, DOC assumes the fiscal impact would be unknown but less than \$100,000 a year.

Officials from the **Department of Public Safety, Division of Highway Safety** stated if this bill puts Missouri in compliance with Congressional TEA-21 requirements (23 CFR Part 1270

ASSUMPTION (continued)

Section 154) concerning Open Containers, the state would avoid transfer of federal highway funds (in excess of \$6 M) from construction projects to hazard elimination and/or safety projects.

Oversight assumes this proposal could result in increased jail time if community service is not performed. However, Oversight assumes most violators would opt for community service versus the service of additional jail time and therefore has ranged the costs from \$0 to (unknown).

FISCAL IMPACT - State Government

FY 2001 (10 Mo.)	FY 2002	FY 2003
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GENERAL REVENUE FUND

Cost - Department of Corrections

Increased incarcerations and
increased probation and parole

(Unknown, less than \$100,000)	(Unknown, less than \$100,000)	(Unknown, less than \$100,000)
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FISCAL IMPACT - Local Government

FY 2001 (10 Mo.)	FY 2002	FY 2003
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LOCAL

Cost - Local Jails

Increased jail time

\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal makes a number of changes to driving while intoxicated offenses. The proposal:

(1) Deletes several provisions concerning ignition interlock devices, including those which
DESCRIPTION (continued)

require the court to make an affirmative finding that the device will not impose undue hardship

on offenders, as well as those requiring the Department of Public Safety to certify the ignition interlock devices (Sections 577.602, 577.604, 577.606, 577.608, 577.612, 577.614);

(2) Makes changes to other ignition interlock device provisions which specify that a certified ignition interlock device, when required, must be present for a period of not less than one month from the date of reinstatement of the offender's driver's license (Section 577.600);

(3) Adds operating a motor vehicle with an open container of an alcoholic beverage in the passenger compartment of a vehicle as a moving violation. Currently, it is illegal only for the driver of the car to be consuming an alcoholic beverage while driving. Exceptions are provided for open containers of alcohol stored in the trunk; behind the last upright seat of a trunk less vehicle; stored in other, sealed containers; behind a solid wall separating the passenger from the driver; in the living quarters of a motor vehicle; and when the container is in the possession of a person paying for transportation in a vehicle with capacity of 12 or more (Section 302.302, 577.001, 577.017);

(4) Requires prior intoxication-related offenders to serve a minimum of 5 days imprisonment to be eligible for parole or probation, an increase from the current 48 hours. The bill also increases the number of community service hours a prior offender must perform for parole or probation, from 10 days to 30 days. New language outlines the requirements of parole and probation for persistent intoxication-related offenders, which include a minimum of 10 days imprisonment, unless as a condition of parole or probation the offender performs at least 60 days of court-supervised community service (Section 577.023); and

(5) Changes the definition of "highway" to include the right-of-way of a public thoroughfare (Section 301.010).

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Revenue
Department of Transportation
State Public Defender
Department of Public Safety
Missouri Highway Patrol
Office of Prosecution Services
Department of Corrections

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large initial "J" and a cursive "e" at the end.

Jeanne Jarrett, CPA
Director
March 6, 2000